



Meeting the Challenge of Injection Drug Use and HIV Epidemic in Armenia

by Karine Markosyan¹

Injection drug use (IDU) and HIV rates in some countries of the former Soviet Union are still skyrocketing. Compared to countries such as Russia and the Ukraine, the prevalence of HIV in Armenia is not high. From 1988 to March 1, 2005, 317 HIV carriers were registered in the country. The estimated prevalence rate is still below 0.1 %. However, the socio-economic crisis, considerable proportion of displaced and refugee populations, poverty, mass unemployment and out migration to countries where the HIV prevalence is high make the HIV/AIDS epidemic a real danger for a small country with a population about three million.

As in other former Soviet countries, there is an apparent linkage between HIV and IDU in Armenia. More than a half of all HIV cases registered in the country are IDUs. The prevalence of the virus in this group is much higher than in any other group of population – it is estimated to be around 15%. In order to prevent a generalized epidemic, the linkage between IDU and HIV should be addressed.

In any AIDS epidemic where injection drug use is so central in driving the spread of the disease, the drug-, HIV- and human rights- related legislature and its application, as well as commitment to democratization and sustained engagement from NGOs and, more generally civil society, in issues addressing the problems of IDUs and people infected by HIV – all those are important determinants of the capacity of a country to mount an effective response to HIV/AIDS. This paper provides an overview of the challenges to effective responses to drug use and HIV in Armenia, outlines the rationale for adopting public health-oriented approaches to the problems of drug use and HIV, provides justification/evidence that the new approaches would be consistent with the international law and proposes a number of policy recommendations for the promotion of public health approaches vs. law enforcement.

The Law of the Republic of Armenia (RA) on "Narcotic Drugs and Psychotropic Substances" which was adopted by the National Assembly of the RA on December 26, 2002 is closely tracking the three major UN Drug Control Conventions. It is guided by the slogan "Armenia Free of Drugs". The provisions of the Law concerning the sale, possession and consumption of narcotics can be characterized as "zero tolerance", since not only the sell and possession, but even the consumption of narcotic drugs or psychotropic substances entails criminal responsibility in Armenia. A similar pattern is seen in application of severe penalties to "traffickers." Since thresholds for trafficking penalties are very low, the law shows little distinction between small-scale dealers/producers and industry kingpins.

Strict measures for the possession and sell of small amounts of narcotics as well as for consumption of drugs without medical prescription result in incarceration of non-violent drug users. In Armenia in 2003, 82 persons were convicted for the illegal use of drugs. Meanwhile, it has been demonstrated that in countries with injection-driven HIV epidemics, prisons are the most powerful factor in HIV transmission. Since sexual relations and drug use are widely practiced there, while condoms and sterile injecting equipment are generally unavailable, many injection drug users resort to unsafe injection practices behind bars. Estimated rate of HIV prevalence among individuals in Armenian penitentiary institutions was found to be 5 to 6%. Although scarce, yet these data suggest that in Armenia as in other countries of fSU zero tolerance approaches may contribute to the spread of HIV.

¹ Karine Markosyan, PhD, MPH was an International Policy Fellow 2004-05 in the field of public health. More details of her research can be found at <http://www.policy.hu/markosyan/>

Another important determinant of effective responses to epidemic is protection of human rights of people vulnerable to HIV. Throughout the history of the epidemic, human rights abuses of vulnerable groups have fueled the spread of HIV. Recognizing that, by the end of 1980s, the call for human rights had been explicitly embodied in the first WHO global response to AIDS. By framing HIV strategy in human rights terms, it became anchored in international law, thereby making governments accountable for their actions toward people affected by the epidemic.

Although none of the international treaties on human rights expressly identifies HIV/AIDS, nevertheless, all of them can promote accountability in HIV-related issues. Human rights relevant to HIV include (but are not limited to) the right to non-discrimination and equality, to health, to liberty and security of the person, to privacy, to seek, receive and impart information, for those who are affected, to participate in developing policies and programs that affect them, to marry and found a family, to work, and the right to freedom of movement, association, and expression.

Armenia is a signatory to the aforementioned treaties. This means that Armenia is obliged to respect, protect and promote the rights recognized in these treaties. However, the analysis of Armenian drug- and HIV-related laws, policies and practices demonstrated that some of them are in conflict with the provisions in the human rights treaties.

The Article 11 of the Armenian Law on HIV/AIDS provides for compulsory testing of at-risk groups of population including IDUs. Further, legislation in Armenia does not have statutes that specifically ban the release of confidential HIV information. Vice versa, the Armenian Health Law, the Law on Personal Data and the Law on HIV/AIDS permit disclosure of medical information in cases envisioned by law (HIV positive status may be among these cases). The aforementioned provisions violate an individual's right to autonomy and privacy and increase the chances that the identity of people living with HIV/AIDS will be revealed without their permission, thereby facilitating official or unofficial discrimination.

Further, while the equality or non-discrimination is a fundamental principle of human rights law, in Armenia the guarantees to non-discrimination are mostly illusory, because Armenia has not passed specific anti-discrimination laws designed to protect vulnerable groups. Furthermore, although the Constitution of the RA provides for the basic human rights, these guarantees are not enforced when the IDUs are concerned.

Obstacles to the adoption of comprehensive human rights-based approaches to HIV in Armenia are apparent in policies relating to harm reduction initiatives. While experience from other regions shows that harm reduction activities must form a critical part of the response to HIV/AIDS, yet, under Armenian drug law, some legal issues may arise if the harm reduction is to be implemented in a broad scale.

For example, under Armenian drug law, counseling and education offered in needle exchange centers may be interpreted as "propaganda" of narcotics. Further, establishment of drug injection rooms may be interpreted as organization of dens. Needless to say that both, organization of dens and propaganda of narcotics entail criminal responsibility. And finally, substitution treatment is illegal in Armenia because methadone, being a List I narcotic drug, is categorically prohibited.

As it has been mentioned already, one of the requirements of human rights treaties is the participation of those who are affected, in developing policies and programs that affect them. Armenia, however, is far from that ideal. The involvement of NGOs in policy making in the areas of HIV and drugs is limited in Armenia. But even those few NGOs which are to some extent involved in policy making, are not able to articulate the concerns of IDUs, because the ties between the two are weak. As a matter of fact, it is hard to imagine how IDUs can officially establish an NGO or get involved in an NGO, if the drug use is criminalized in Armenia.

Thus, the analysis of policy issues associated with injecting drug use and HIV in Armenia suggests that, it is overcriminalization of drug use and the inability of the government to reach out to IDUs that threaten the effective response to drugs, drug users and HIV. The punitive drug law results in incarceration of non-violent drug users, and increase their vulnerability to HIV. Exclusionary policies effectively deny the human rights of IDUs and exacerbate the public health threat posed by the HIV epidemic. The controversial status of harm reduction initiatives limits their promise to guarantee the right to health for IDUs and reduce their HIV risk. Due to obstacles for IDUs to get engaged in programming directed at the twin epidemics, their human rights

guarantees remain abstractions and their needs - unarticulated and unmet . These policies and practices are in conflict with the International Law, which can not be ignored if Armenia is going to ascent to the European Union.

These conclusions suggest a number of policy recommendations.

1. Social priorities should be rebalanced, away from claims of morality, intolerance and law enforcement approaches that exclude injecting drug users from the social mainstream.
2. Mandatory imprisonment/institutionalization for possession of small amounts of illicit drugs which serve to accelerate HIV infection must be repealed.
3. Overall, the legal framework has to be brought into full compliance with international obligations. In particular,
 - policies that violate the right to non-mandatory HIV testing must be eliminated;
 - a policy or official edict should be issued to specifically ban the release of confidential HIV information;
 - another policy or official edict should be issued to interpret the article of the Armenian Constitution on non-discrimination to ensure that no person can be discriminated against based on HIV status or injecting drug use.
4. The legislation should be changed in order to enable harm reduction programs to operate in their entirety on a nationwide scale without legal risk, challenge, or unwarranted intrusion. In particular,
 - the legal definitions and interpretations of “inclining”, “propaganda” and “den” should be changed so as to exclude actions which are an integral part of a harm reduction strategy or program;
 - since methadone is expressly prohibited under Armenian law and the use of other narcotics for substitution therapy is problematic, it is recommended that the medical use of methadone and other narcotic substitutes, such as buprenorphine, be authorized for experimental use under appropriate control of relevant governmental agencies.
5. The governments should play an active role in establishing and supporting a large, strategically located network of harm reduction programs, and in providing adequate training to program personnel.
6. Obstacles to greater engagement in HIV/AIDS programming by civil society groups must be identified and removed.
7. The representatives of IDUs and persons infected by HIV should be included in policy making and other initiatives directed at the epidemic. Otherwise many human rights guarantees will remain abstractions for these groups.